



**House  
Legislative  
Analysis  
Section**

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**THE APPARENT PROBLEM:**

While the problem of child abuse has gained recognition in recent years, social workers and others whose work brings them in contact with older adults have begun to realize that a parallel situation exists among our elderly citizens. Elderly abuse and neglect emerge in several forms. An elderly parent may be involved in a cycle of family violence, where a son or daughter, once abused as a child, is now the perpetrator. Some senior citizens are victims of financial exploitation. Some are victims of self neglect. Others may be victims of con artists, within or outside the family, or of health care providers in institutions. Still others are victims of caregivers who may have mental or emotional problems, or who are alcoholics and unable to provide proper care. The substance abuse may be directed toward the victim by a caregiver or by a medical care facility that "over-medicates" its patients by means of tranquilizers. Or the problem may simply be that providing care for an impaired older adult has created financial and emotional problems within a family that is unable to cope with the burden. In 1985 the U.S. House subcommittee on Health and Long-term Care, chaired by Representative Claude Pepper, issued a report, "A National Disgrace," calling abuse of the elderly a full scale national problem that existed with a frequency few have dared to imagine possible. The subcommittee estimated that four percent of elderly Americans — over one million senior citizens — were victims of abuse and neglect.

Public Act 519 of 1982 was Michigan's main response to the problem. The act required human services providers to report suspected cases of adults who were unable to act on their own behalf to the Department of Social Services (DSS), attempted to establish definitions for abuse, neglect, exploitation, and endangerment, clarified the role of the Department of Social Services (DSS), and required that the DSS conduct investigations and take necessary action to safeguard the welfare of elderly adults. In 1985 a study conducted by the department found that 66 percent of Adult Protective Services clients were over age 60, and 25 percent were over age 80. In January, 1988, the Elder Abuse Task Force was convened by the Department of Management and Budget's Office of Services to the Aging, with representatives from various state departments and agencies, and from advocacy groups, in an attempt to define and deal with the problem. The following were among the task force's final preventative recommendations:

- Uniformity and accuracy is needed in record keeping on abuse and neglect cases across various state departments and agencies.
- The attorney general's Health Care Fraud Division should be required to report to the Department of Public Health on all referrals made to the division by the department.
- The Department of Licensing and Regulation, in conjunction with the Department of Public Health, should develop timely procedures for investigating and taking appropriate disciplinary actions against licensed health

**PROTECTION AGAINST ELDERLY ABUSE**

House Bill 5007 (Substitute H-2)  
First Analysis (11-14-89)

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Sponsor: Rep. Wilfred Webb

Committee: Senior Citizens and Retirement  
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care workers, including doctors, accused of abuse or neglect.

- Procedures for dealing with cases of adult abuse should be incorporated into the training of law enforcement officers.
- Prevention activities should include education of the general public, and of professionals, students and the elderly themselves to foster an awareness of abuse and of the availability of programs to combat it.
- A referral process among social services, health, aging, law enforcement, and judicial networks should be initiated in each community.
- Courts should be provided sufficient resources to screen potential guardians to determine suitability.
- The probate court should have the resources to appoint a guardian ad litem to represent a potential ward and, if an attorney is requested by the guardian or the ward, attorneys for both in order to ensure an adversarial relationship between the two.
- Adequate funding should be appropriated to implement the training and other coordination efforts outlined above.

The task force stressed that the "ideal system" that the state should move toward (as outlined by the state of Maine in a February, 1988, report entitled "Adults-At-Risk") is one that would provide prompt, adequate and effective services at the point of need or at the time of initial crisis. The goal of this ideal system would be to provide the maximum level of independence for the adult in the most appropriate and least restrictive setting. The "ideal system" stresses that the right of self-determination of all individuals should be respected by the system. Toward this goal, the task force recommended that the act be amended to provide more protection to the elderly by clarifying the act's current definition of "neglect," so that individuals who suspect that an adult is being abused or neglected have clearer guidelines to follow in determining when to intervene. Currently, the act defines "neglect" as harm to an adult's health or welfare caused by the conduct of a person responsible for the adult's health and welfare. The act provides a further definition, "endangerment," which means a life threatening situation caused by the inability of the person whose life is threatened to respond. Human service workers, guided by these definitions in deciding when they should intervene to provide services to individuals, complain that the former definition, "neglect," is too vague: since no one is legally bound to "care for" another person, there is no standard by which to measure neglect. The latter definition, "endangerment," also causes problems. It applies to self-neglect, an area which is also vague, since it is difficult to determine at what point an individual's right to live as he or she chooses becomes self-neglect.

The task force report also identified substance abuse as a component in the problem of elder abuse and neglect, and recommended that the act be amended to require the DSS to work in conjunction with the Office of Substance Abuse Services in the Department of Public Health on elderly abuse cases involving substance abuse.

H.B. 5007 (11-14-89)

### ***THE CONTENT OF THE BILL:***

The bill would amend the Social Welfare Act to delete references to "endangerment," and to revise current definitions in the act concerning abuse and neglect as they relate to adults, who are defined under the act as persons 18 years of age and over. Under the bill, "neglect" would be redefined to include "harm to an adult's health or welfare caused by the inability of the adult to respond to a harmful situation or by the conduct of a person who assumes responsibility for a significant aspect of the adult's health or welfare." Should the abuse, neglect, or exploitation of an adult involve substance abuse, the bill would also require county departments of social services to collaborate with the local substance abuse coordinating agency designated by the Office of Substance Abuse Services in the Department of Public Health for a referral for substance abuse services.

MCL 400.11 et al.

### ***FISCAL IMPLICATIONS:***

According to the Department of Social Services, the bill would have minimal impact on state funds. (11-13-89)

### ***ARGUMENTS:***

#### ***For:***

While current law demonstrates an intention to protect Michigan's abused adults, it has not been adequate in providing the methods to accomplish this. By defining "neglect" as harm caused by the adult or by the conduct of the person who has assumed responsibility for a significant aspect of the adult's health or welfare, the bill would provide a measure by which the caretaker of the adult could be held accountable. The bill would also expand the role of state agencies in dealing with suspected abuse by linking the resources of the Department of Social Services to those of local substance abuse agencies.

#### ***Against:***

The bill does not go far enough, because it deals only with crisis intervention, when a situation is probably already out of hand. What are really needed are efforts directed toward the prevention of adult abuse, alerting the public to the forms which adult abuse can take, the reasons why it happens, and what community services are available to assist families in order to avoid abusive situations.

### ***POSITIONS:***

The Department of Social Services supports the bill. (11-13-89)

The Office of Services to the Aging supports the bill. (11-9-89)

The Office of Substance Abuse Services supports the bill. (11-9-89)

The Michigan Senior Advocates Council has no position on the bill. (11-13-89)

The Department of Public Health has no position on the bill. (11-13-89)

The Michigan County Social Services Association has not yet taken a position on the bill. (11-9-89)